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7 UNITED STATES DISTRICT COURT  
8 CENTRAL DISTRICT OF CALIFORNIA  
9 WESTERN DIVISION  
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11 DEMARAIS JONES, ) No. CV 12-10176-SVW (VBK)  
12 )  
13 Petitioner, ) ORDER ACCEPTING FINDINGS AND  
14 ) RECOMMENDATIONS OF UNITED STATES  
15 v. ) MAGISTRATE JUDGE  
16 )  
17 HEIDI M. LACKNER, et al., )  
18 )  
19 Respondents. )  
20 \_\_\_\_\_ )  
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22 Pursuant to 28 U.S.C. §636, the Court has reviewed the Petition  
23 for Writ of Habeas Corpus ("Petition"), the records and files herein,  
24 and the Amended Report and Recommendation of the United States  
25 Magistrate Judge ("Amended Report").  
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1       **IT IS ORDERED** that: (1) the Court accepts the findings and  
 2 recommendations of the Magistrate Judge, and (2) the Court declines to  
 3 issue a Certificate of Appealability ("COA").<sup>1</sup>

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 5 DATED: June 16, 2014



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 7 STEPHEN V. WILSON  
 8 UNITED STATES DISTRICT JUDGE  
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15       <sup>1</sup> Under 28 U.S.C. §2253(c)(2), a Certificate of Appealability  
 16 may issue "only if the applicant has made a substantial showing of the  
 17 denial of a constitutional right." Here, the Court has accepted the  
 18 Magistrate Judge's finding and conclusion that the Petition is time-  
 19 barred. Thus, the Court's determination of whether a Certificate of  
 20 Appealability should issue here is governed by the Supreme Court's  
 21 decision in Slack v. McDaniel, 529 U.S. 473, 120 S. Ct. 1595 (2000),  
 22 where the Supreme Court held that, "[w]hen the district court denies  
 a habeas petition on procedural grounds without reaching the  
 prisoner's underlying constitutional claim, a COA should issue when  
 the prisoner shows, at least, that jurists of reason would find it  
 debatable whether the petition states a valid claim of the denial of  
 a constitutional right and that jurists of reason would find it  
 debatable whether the district court was correct in its procedural  
 ruling." 529 U.S. at 484. As the Supreme Court further explained:

23       "Section 2253 mandates that both showings be made before the  
 24 court of appeals may entertain the appeal. Each component  
 25 of the § 2253(c) showing is part of a threshold inquiry, and  
 26 a court may find that it can dispose of the application in  
 a fair and prompt manner if it proceeds first to resolve the  
 issue whose answer is more apparent from the record and  
 arguments." Id. at 485.

27       Here, the Court finds that Petitioner has failed to make the  
 28 requisite showing that "jurists of reason would find it debatable  
 whether the district court was correct in its procedural ruling."